IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPLICATION NO.5520 OF 2005

IN

CRIMINAL APPEAL NO.638 OF 2005

Somnath Gangaram Shinde & Anr. : Applicants.

versus

The State of Maharashtra : Respondent.

Mr.A.P.Mundergi, Sr.Counsel, with Mr.Prakash Naik, for the applicants.

Smt.V.R.Bhosale, APP,for the State.

CORAM : D.G.DESHPANDE

S.A.BOBDE, JJ.

DATED : AUGUST 07, 2006.

P.C.

1. Heard learned counsel Mr.Mundergi for the applicants and Smt.Bhosale, learned APP for the State.

2. This is an application for bail filed by the applicants, who are original accused Nos. 2 and 8. They have been convicted along with others for the offences under Section 302 r/w Section 149 of the Indian Penal Code and other offences. The main contention of the learned counsel Mr.Mundergi was that though in the FIR and in the evidence of witnesses and victim names of accused Nos. 9 and 10 are figured, the Court acquitted them after accepting defence of alibi of accused No.9 in particular. Mr.Mundergi, therefore, contended that if the witnesses could falsely implicate one of the accused, then they could also implicate others also.

3. Mr.Mundergi appearing for the applicants was also taken us through the evidence of complainant Rukhmini and the Sarpanch - the brother of victim, who had suffered injuries. They are consistent in their deposition about the role played by these two accused/applicants. The weapons of assault have also been recovered. At the time of bail, we may not go into minor contradictions in their evidence with reference to the injuries suffered. Therefore, no case is

made out for bail. Application is rejected. Appellant to prepare paper book and, thereafter fixed date for final hearing will be given as they are in custody since three and half years. Criminal Application is disposed of accordingly.

[D.G.DESHPANDE,J]

[S.A.BOBDE, J]